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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 State of Arizona, et al.,

10 Plaintiffs,

11 v.

12 Michael D Lansky LLC, et al.,

13 Defendants.
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No. CV-23-00233-TUC-CKJ

ORDER

15 On May 23, 2023, this action was filed by multiple State Attorney Generals against
16 the Defendants Michael Lansky LLC, and Michael Lansky and Stacy Reeves, individually,
17 and all as doing business as Avid Telecom. Defendants have not yet answered. On July 24,
18 2023, the Court, pursuant to an unopposed motion, extended the deadline for responding
19 to the Complaint to September 7, 2023. At that time, Defendant Reeves was represented
20 by attorney Lee Stein, who has since withdrawn, and Defendants Lansky LLC and Michael
21 Lansky, were represented by Neil S. Ende, who signed onto the motion for an extension of
22 time as, “*Pro Hac Vice* motion to be filed.” (Motion (Doc. 14)). Mr. Ende did not, however,
23 file the motion for *pro hac vice* until September 8, 2023.

24 On September 7, 2023, at approximately 6:55 PM, Mr. Ende filed the Application
25 for Admission to Practice *Pro Hac Vice* and a (Second) Motion for Extension of Time to
26 answer or otherwise respond to the Complaint. Both were docketed as filed on September
27 8, 2023. *See* Dist. of Ariz. Case Management/ECF Admin. Policy & Procedure Manual §
28 I.A (NOTICE OF ELECTRONIC FILING (NEF) defined as “notice automatically

1 generated by the ECF system at the time a document is filed with the court.”) Mr. Ende’s
2 Application to Practice *Pro Hac Vice* reflects that he represents Avid Telecom, LLC. The
3 Court notes that Avid Telecom is not a named party; Plaintiffs sue all Defendants as doing
4 business as Avid Telecom. Therefore, the Court understands Mr. Ende’s application to
5 mean he seeks admission *pro hac vice* to appear and practice in this action on behalf of all
6 Defendants.

7 Also, on September 8, 2023, the Plaintiffs filed an Application for Entry of Default
8 because the Defendants failed to defend this action. On September 13, 2023, Plaintiffs filed
9 a Response in Opposition to the Motion for Extension of Time to answer or otherwise
10 respond to the Complaint.

11 Under Fed. R. Civ. P. Rule 55(a), entry of default for affirmative relief may be
12 sought from the Clerk when a party has failed to plead or otherwise defend, and that failure
13 is shown by affidavit or otherwise. The Clerk of the Court has not, however, entered default
14 because of the pending motion by Defendants for an extension of time.

15 Even if the Court considered the motion for an extension of time to be filed on
16 September 7, 2023, Plaintiffs correctly point out that the Defendants offer no explanation
17 why the motion and the application to appear *pro hac vice* were not filed until the eve of
18 the time for answering expired. Plaintiffs object to the extension based on Defendants’
19 assertion that the parties are attempting settlement. While this may have been true, initially,
20 it is now clear that the matter will not be resolved expeditiously by settlement. (Response
21 (Doc. 22) at 2, 4.) The Court agrees because approximately four months have already
22 passed since the Complaint was filed in May. Defendants waived service in mid-June with
23 an answer deadline of July 24, 2023, which was extended to September 7, 2023. The Court
24 will grant the Defendants, who are now all represented, a limited extension of time to
25 enable them to answer or otherwise respond to the Complaint.

26 **Accordingly,**

27 **IT IS ORDERED** that the Motion for Extension of Time (Doc. 20) is GRANTED,
28 extending the time to defend for 21 days from the filing date of this Order.

Dated this 14th day of September, 2023.

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